

INJURY THREATENED TO INDEPENDENT SERVICE

B. Noyes, as president of said association, which statement was as follows:

"THE ASSOCIATED PRESS.

The annual meeting of The Associated Press (New York corporation), which by the by-laws is fixed for Sept. 12, will be necessarily adjourned to a later date, of which due notice will be given hereafter. It has been found that the details incident to the perfection of the organization and the commencement of its news service are of such a character as to render it impossible to complete them in a time available before next Wednesday. A number of the newspapers served by The Associated Press of Illinois have not as yet forwarded their applications, and it will facilitate matters to have them in hand at once.

FRANK B. NOYES, President.

During a recess in the meeting of stockholders of said corporation on September 12, 1900, a convention of the publishers of newspapers on the membership roll of said corporation was held to consider the effect upon their interests of pending changes in arrangements for the collection and distribution of the news; that at such convention a large number of the six hundred and seventy members of said corporation were represented either personally or by parties empowered to look after their interests. H. W. Scott of the Portland, Ore., Oregonian presided. By the selection of three members from each of the four divisions into which the country was by said corporation divided for news service the following special committee was appointed (the chairman of the convention being an ex officio member) with instructions to investigate and report existing conditions.

Eastern Division—F. E. White, Boston, Mass.; H. D. White, New York World; H. J. Ford, Pittsburgh, Pa., Chronicle-Telegraph.

Central Division—D. M. Munn, St. Paul, Minn.; J. H. H. Kohlsaat, Chicago, Ill.; J. H. H. Kohlsaat, Chicago, Ill.; J. H. H. Kohlsaat, Chicago, Ill.

Southern Division—D. A. Tompkins, Charlotte, N. C.; O. Oberer, T. G. Rapier, New Orleans, La.; F. B. Noyes, Washington, D. C., Star.

Western Division—V. S. McClatchey, Sacramento, Cal.; E. C. Hughes, Seattle, Wash.; Post-Intelligencer; P. H. Lannan, Salt Lake, Utah, Tribune.

The committee reported to said convention practically as follows:

1. That the most important elements of value in a news service could no longer be maintained under court decisions, through membership in The Associated Press of Illinois.

2. That while it would take a long time legally to wind up the existence of The Associated Press of Illinois, it could be done without imposing further liabilities on its members; and that the same course will be followed uniformly by all the members of the Illinois association, so that there will be no hiatus in their news service when the report of the committee is accepted.

3. That under the laws of New York an association could be formed which would protect news rights better than could be done in Illinois, and as well as could be done in any other State.

4. That The Associated Press, organized under the laws of New York as a corporation, but that the committee had not been enabled to make such examination of its by-laws as to judge whether news rights could be properly protected thereunder.

Your petitioner further shows that said report, after discussion, was unanimously adopted by said convention.

The convention adjourned on September 12, to meet again at New York on September 13th, at which time the said committee to continue its labors and submit at that time, and to send also by mail to members of said association, a full report upon the advisability of joining the said association, together with such alterations of the by-laws thereof as might seem wise, and advise as to the liabilities, if any, of members of said corporation under existing contracts.

The committee sent out from Chicago, on September 14, notification by telegraph that the annual meeting of the said association would be adjourned to a date of which sufficient time for the committee to discharge its duties effectually and to advise members of said corporation by mail accordance with its instructions, and this notice was requested for criticism and suggestion regarding the New York by-laws. On September 21, 1900, said committee, after repeated conferences with the directors of said association and with the knowledge and approval of said directors, sent to all members of said corporation a printed report, a copy of which, omitting some introductory statements, is hereto appended and marked Exhibit "A."

On September 20, 1900, there were contemporaneously transmitted to the publishers of all the newspapers on the membership roll of said corporation two statements, one over the signature of Charles W. Knapp, the then president of said corporation, the other over the signature of Frank B. Noyes, the then president of said association, which statements are as follows:

"CONFIDENTIAL COMMUNICATION TO PUBLISHERS.

In execution of the instructions given by the stockholders of THE ASSOCIATED PRESS, conveyed in various resolutions adopted at their meeting in Chicago, on September 12th, the Board of Directors have arranged to wind up the affairs of the association, and to sell and transfer its assets to the corporation organized under the laws of the State of New York, and known as THE ASSOCIATED PRESS.

Assurance has been given by the Board in a satisfactory form that THE ASSOCIATED PRESS, of New York, will purchase and take over the assets of the Illinois corporation and furnish an adequate and complete service of news to all its members immediately upon the discontinuance of the service now rendered.

The Boards of the Illinois and New York corporations have entered into a written agreement in connection with the transfer of assets covering the full payment of all liabilities for which the association, its officers or its members may be responsible. The Boards of the two associations have also arranged that the news report of the Illinois corporation should stop at midnight on Sunday, September 30th, and the news report of the New York association should begin on the same day and at the same hour. In view of the early date at which the Illinois association will discontinue its news service, all its members are earnestly urged to immediately complete the necessary arrangements for securing the news from the New York association, to which end applications for membership in that organization should be filed without delay.

The entire authorized capital stock of said corporation was \$100,000, but less than \$50,000 of said stock was ever issued; the said association acquired the funds with which to pay for and take up the stock of said corporation and a working capital by the sale of bonds of said association of the par value of \$50 each; the total issue of bonds of said association authorized by its by-laws is \$100,000.

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management will be communicated to the stockholders at an early date.

CHARLES W. KNAPP,

President, The Associated Press.

"THE ASSOCIATED PRESS (New York corporation) will begin the service of news to all who have qualified as members, at midnight of September 30, 1900. To qualify it is necessary that the application for membership be sent at once in order that the applicant may be duly elected.

A general meeting of the members of the New York corporation for the election of directors will be held in the City of New York in the near future, and due notice will be given of the same.

FRANK B. NOYES, President.

On September 21, 1900, there was transmitted to the publishers of all the newspapers on the membership roll of said corporation through the office of news transmission of said corporation, over the signature of Charles W. Knapp, the then president of said corporation, a statement which was in the words and figures following, to wit:

"CONFIDENTIAL TO MEMBERS OF THE ASSOCIATED PRESS.

"New York, September 21, 1900. In view of the early termination of the news report of the Associated Press, the Board of Directors has authorized the General Manager to cancel the membership contracts of all members making request in that effect. The cancellation of a member and presentation of the membership contract, it will be duly informed as cancelled, and the member will be released from all obligations thereunder. It is desirable that all the membership contracts should be cancelled, the stockholders having ordered the Board of Directors to wind up the affairs of the corporation. The contracts should be cancelled, and the liabilities of the members thereunder may terminate at the time their new obligations as members of the New York corporation begin.

"It can be stated for the information of all who are interested that the claim of the Inter Ocean Publishing Company, for which a suit for damages is pending in the Illinois courts, has been amicably adjusted by arbitration, awarding a payment in final settlement. As a part of this settlement the Inter Ocean Publishing Company has agreed to discontinue its suit, which it has instituted against the Associated Press and its officers. Satisfactory arrangements have also been made with the New York Sun for the dismissal of all suits which it has heretofore begun against the association.

"The New York papers, members of the Illinois corporation, decided unanimously at a meeting held to-day to become members of the New York corporation, and to indicate that the same course will be followed uniformly by all the members of the Illinois association, so that there will be no hiatus in their news service when the report of the committee is accepted.

"On or about the 30th day of September, 1900, the membership contracts of practically all members of said corporation were cancelled, and the members of said corporation were released from all obligations under said contracts respectively.

Your petitioner further shows that the said Melville E. Stone shortly after the organization of said association was elected general manager of said association. Since September 30, 1900, said Stone has actually and continuously performed the duties of general manager of said association, and said Charles S. Diehl has acted until within a few years as assistant general manager of said association, the latter with headquarters at Chicago. Said Stone, as such general manager, took into the service of said association the entire corps of employees of said corporation; the offices of said corporation throughout the United States were retained as the offices of said association; said association succeeded on September 30, 1900, to all the rights and obligations of said corporation under its contracts for the furnishing and exchange of news with news agencies of the Old World. Upon the termination of the news service of said corporation at midnight September 30, 1900, the said association, without a second's interruption of service, took up the said corporation's business of furnishing news to the newspapers of the United States; and since it began said news service as aforesaid and down to the present time it has continuously furnished such news service in exactly the same way and using exactly the same facilities and methods of every description for gathering and transmitting news as prior to midnight on September 30, 1900, had been done by the said corporation. The extent and character and comprehensiveness of the news gathered and furnished by said association have not decreased in comparison with the news gathered and furnished by said corporation, but have, if anything, increased, and all the conditions heretofore set forth, which prior to September 30, 1900, made newspapers published in the United States dependent upon said corporation for news, as hereinabove shown, have continued to exist since September 30, 1900, and now exist and make the newspapers published in one of the large cities of the country, almost solely dependent for all but local news service on said association.

The entire authorized capital stock of said corporation was \$100,000, but less than \$50,000 of said stock was ever issued; the said association acquired the funds with which to pay for and take up the stock of said corporation and a working capital by the sale of bonds of said association of the par value of \$50 each; the total issue of bonds of said association authorized by its by-laws is \$100,000.

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by its by-laws is \$100,000, and prior to November 31, 1900, more than \$120,000 worth of said bonds had been issued and sold.

ARTICLE III.

Your petitioner further shows that said association has been since said alleged "reorganization" and still is doing business under the name of "The Associated Press" and that it is engaged in carrying on trade and commerce between the several States and Territories.

Your petitioner further shows that at a meeting of the members of said association on November 21, 1900, held at the City of New York, those of said members who under Article XII, section 3, of the by-laws of said association, were entitled to vote thereon, elected a board of fifteen directors of said association; that said directors thereupon met at once and chose Frank B. Noyes to be president, Melville E. Stone to be secretary, and Charles S. Diehl to be assistant secretary of said association.

In the same month the Baltimore American, which had previously made a like contract with the undersigned, was notified by the general manager of the Associated Press that either the Baltimore American would have to discontinue its wire service with the undersigned or it would lose its press franchise.

In January, 1910, the Washington Post, by letter dated January 15, 1910, notified the undersigned that by reason of "a conflict with the by-laws of the Associated Press" it was necessary for the said Washington Post "to remove the wire from the news department of its newspaper," meaning thereby the special wire by which the Washington Post received the news from the undersigned.

The undersigned believes and avers that some time in the fall of 1909 the said Associated Press attempted to make a hostile and aggressive attack to destroy the competition existing between it and the news bureau maintained by the undersigned, and so far as possible it procured the name of every newspaper which either sold news to or purchased news from the undersigned, and thereupon sent to such newspapers as then owned an existing franchise of the Associated Press a notice that any business relation between it and the undersigned, with reference to the purchase, sale, transmission and collection of news, was against the laws of the Associated Press and would subject such offending member to the loss of its franchise and expulsion.

The undersigned further avers that this persistent blacklist and boycott, with its obvious and necessary destruction of interstate commerce in the physical transmission by telegraph of news as a purchasable commodity is still existent and, as an illustration of the same, the undersigned further avers that in March, 1913, it sought to make an arrangement with the Chicago Inter Ocean for the purchase and sale of news, the same to be transmitted through the channels of interstate commerce by wire. In order to enable the Chicago Inter Ocean, which was sincerely desirous of doing this, to do so, it being a member of the Associated Press, it submitted a proposition to the controlling body of the Associated Press and was advised that under the rules of the Associated Press it was impossible to make the arrangement with the undersigned.

Many additional instances could be given of these acts of oppression and unfair competition. Many doubtless exist which, in the nature of the case, are not brought to the knowledge of the undersigned and which it only feels in the loss of its customers and the destruction of its profits; but the undersigned verily believes and therefore avers that a further examination either by your department on its own initiative or through judicial proceedings in a court of law will develop the fact above stated, namely, that the Associated Press has for many years sought to destroy its only substantial competitor and thus to secure a monopoly in the collection, purchase, sale and distribution of news.